

TO: STATE BROKERS AND LICENSEES

FROM: LEE B. HARRIS
GENERAL COUNSEL

DATE: AUGUST 26, 2003

RE: HANDLING REFERRAL FEES

The question has arisen as to how a licensed broker or agent in Kentucky can legally handle a referral fee to a relocation company or out-of-state broker or other licensed affinity program.

Under Kentucky law, a licensed broker can legally pay a referral fee to a broker licensed in this or any other state for referring a client or customer to that Kentucky broker. Please see KRS 324.020(4) for the precise language of the law.

Kentucky law prohibits Kentucky licensees from paying any type of rebate or giving any type of inducement to a client or customer. However, the Commission has held that, once a referral fee is paid to a licensed broker in another state, the Commission's jurisdiction ends. If the licensed broker in the other state then rebates a portion of that fee to the client or customer, the Commission has no jurisdiction over that rebate. That payment would be governed by the laws of the state where the referring broker is licensed. So long as that state allows rebates, the rebate would be legal.

Please contact the Commission's legal department with any questions about this matter.